

Wagner, Carmen (DNR)

From: Michael Ubl [mubl@townofliberty.com]
Sent: Monday, December 29, 2003 1:27 PM
To: Herkert, Toni
Subject: General concerns and comments regarding NR115 Shoreland Management Program



ordinance Regulating
fishing r...



raft registration flyer
hand o...

Dear Toni,

My name is Michael Ubl and I am the Town Chairman for the Town of Liberty in Outagamie County, Wisconsin. I am also one of the authors of the ordinance that was passed by many municipalities along the Wolf River in the Fall of 2000 which further regulated fishing rafts along the Wolf River and cleared up some definitions from an old ordinance. Portions of this new ordinance were then taken by the DNR and were modified and implemented into law sometime in 2002. I have included this ordinance and a copy of a handout that we gave to our raft owners during the first year of this new ordinance.

As you can hopefully see, and probably already know, raft fishing along the Wolf River is a time honored tradition in this area. Most of these people respect and care for the river as if it were their own. Unfortunately, some people tried to use the old raft regulations to usurp the current Shoreland Program. We then, as a group of DNR officials, local officials, and local fishermen, got together and came up with a clear definition of the High Water Mark as well as defining what a raft was, and how it could be used. This was an amazing partnership between local government, state government, and waterway users. The reason I am sending this email is because I fear that proposed updates to the Shoreland Management Program under NR115 will undo the good work that has been done. Asking these fishermen to remove their rafts another 75' beyond the ordinary high water mark will in effect end the practice of raft fishing along the Wolf River. It is my interpretation that Section II, which defines the OHWM setbacks, would require that fishing rafts be removed another 75' from what is currently required. Therefore, I am asking that the DNR consider exempting fishing rafts along the Wolf River from the proposed 75' set back.

Please feel free to contact me at any time if you have any questions about these rafts or the impact of the proposed regulations on these fishing rafts along the Wolf River.

Please add me to your email list so that I may be kept updated on the status of the NR115 revision process.
Thank you.

Michael Ubl

Michael J. Ubl
Chairman - Town of Liberty
Outagamie County, Wisconsin
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<http://www.townofliberty.com>
920-982-0908

ORDINANCE NO. L101100-01

REGULATION OF FISHING RAFTS ON THE WOLF AND EMBARRASS RIVERS**SECTION 1.0 – STATUTORY AUTHORIZATION, FINDING OF FACT, PURPOSE, AND TITLE****SECTION 1.1 – REPEAL OF PRIOR ORDINANCE**

Town of Liberty ordinance #5 is hereby repealed in its entirety. The passing of this ordinance declares that the previous ordinance regulating Fishing Rafts in the Town of Liberty is null, void, and stricken in its entirety.

SECTION 1.2 – STATUTORY AUTHORIZATION

This ordinance is adopted pursuant to authorization in ss. 30.126 and 30.77 Wisconsin Statutes.

SECTION 1.3 – FINDINGS OF FACT

Historically, fishing rafts have been on the Wolf River and its tributaries from the Shawano dam downstream to Lake Poygan. Typically, most rafts are used during spring fish spawning runs. The number and conditions of rafts has caused conflicts with the other river users and has resulted in other problems on the Wolf River. The need to regulate fishing rafts is hereby recognized by the Town of Liberty, Outagamie County, Wisconsin.

SECTION 1.4 – PURPOSE

The purpose of this ordinance is to:

1. Establish certain restrictions on the placement, use and storage of fishing rafts.
2. Provide for annual registration and inspection of fishing rafts.
3. Establish certain construction and maintenance standards for fishing rafts.

SECTION 2.0 – DEFINITIONS**SECTION 2.1 – FISHING RAFT**

A "Fishing raft" means any raft, float, or structure, including a raft or float with a superstructure and including a structure located or extending below the ordinary high water mark of the waterway, which is designed to be used or is normally used for fishing, which is not normally used as a means of transportation on water, and which is normally retained in place by means of a permanent or semi permanent attachment to the shore or to the bed of the waterway. Fishing rafts do not include boathouses, fixed houseboats, wharfs and piers.

SECTION 2.2 – FLOTATION DEVICE

"Flotation Device" means any device used to provide flotation for a fishing raft, including each individual barrel or Styrofoam coffin.

SECTION 2.3 – RIPARIAN

"Riparian" means the owner of the shorelands adjacent to the Wolf River or its tributaries.

SECTION 2.4 – MUNICIPALITY

"Municipality" means any city, village, or town, which adjoins or includes any part of the Wolf River or its stream tributaries from the Shawano dam downstream to Lake Poygan.

SECTION 2.5 - ORDINARY HIGH WATER MARK

"Ordinary High Water Mark" means the point on the bank or shore up to which the presence and action of surface water is so continuous as to leave distinctive mark, such as by erosion, destruction or prevention of terrestrial vegetation, predominance of aquatic vegetation or other easily recognized characteristics.

SECTION 3.0 – RESTRICTIONS ON FISHING RAFTS ON THE WOLF RIVER AND ITS TRIBUTARIES

SECTION 3.1 - FISHING RAFTS MAY NOT:

1. Obstruct navigation or interfere with public rights.
2. Be located in the channel of the waterway.
3. Block more than 25% of the width of the waterway, singularly, or in combination with other fishing rafts.
4. Be located within ten (10) feet of another fishing raft.
5. Be placed in the waterway except by a riparian property owner next to their own land or except by written permission of the riparian property owner.
6. Be placed into the river or below (waterward) of the ordinary high water mark prior to March 1st of any year and must be removed from the river and placed above (landward) of the ordinary high water mark by October 31st of each year.
7. Be stored above (landward) of the ordinary high water mark of the river, for an entire calendar year without the proper variance granted by the town board of supervisors for the Town of Liberty.
8. Be equipped with toilets unless those toilets comply with rules of the Wisconsin Department of Commerce. (COMM ch. 86, WAC or the most current revision)
9. Be abandoned.
10. Be placed into the water with improper flotation devices.
11. Be improperly maintained. (s. 30.126(5)(j) Stats.)
12. Be used as a fishing raft unless registered as such.
13. Exceed 512 sq. feet with no maximum dimension being longer than 32 feet. Rafts registered prior to Jan. 1, 2001 shall be deemed to be in compliance with this provision.
14. Have a maximum height from the deck to the peak of the roofline greater than 11 feet. Rafts registered prior to Jan. 1, 2001 shall be deemed to be in compliance with this provision.

SECTION 3.2 - FISHING RAFTS MUST:

1. Be stored completely above (landward) the ordinary high water mark, during a period from on or before October 31st to March 1st
2. Be placed into the waterway, located or extending beyond or below (waterward) the ordinary high water mark, for a period of not less than 14 continuous days and nights. Any raft that is not placed into the waterway for this period, during a calendar year, shall be deemed in violation of this ordinance and shall be deemed an illegal structure and is then subject to all applicable zoning regulations. The town board of supervisors of the Town of Liberty may grant, upon request, a variance for extenuating circumstances, such as low water, allowing a fishing raft to remain out of the waterway, above (landward) the ordinary high water mark, for the entire calendar year. This variance is at the sole discretion of the board and may only be approved by a majority vote. Persons seeking this type of variance should apply, in writing, to the town board of supervisors for the Town of Liberty.

SECTION 4.0 – FISHING RAFT REGISTRATION

SECTION 4.1 – REGISTRATION AND TRANSFER

1. Any person mooring, placing, or maintaining a fishing raft on the Wolf River and its tributaries within the Town of Liberty shall register each fishing raft annually with the municipality in which the fishing raft will be most frequently moored.
2. All registrations shall expire on December 31st of each year.
3. Any person who acquires an interest in an existing raft shall submit an application within 15 days to transfer the registration number.

SECTION 4.2 – APPLICATION FOR REGISTRATION

An application for new, renewal, or transfer of fishing raft registration shall contain:

1. The owner's name(s).
2. The owner's address (') and telephone number(s).
3. Name of municipality in which the raft is or will be most frequently used.
4. The registration number and expiration date, if the raft was previously registered.
5. Type of application; new, transfer, or renewal.
6. Proof that the applicant is the riparian owner of property adjacent to the rafts mooring location or has written permission of the riparian owner.

SECTION 4.3 – REGISTRATION FEE

1. The annual registration fee is originally established at \$5.00 and shall accompany each application for new or renewal of ownership registration.
2. A fee is not required for transfer of ownership if a valid registration exists for the fishing raft.
3. The Town of Liberty will use the fee to administer and enforce the fishing raft registration system and fishing raft restrictions.
4. In addition to the registration fee, the Town of Liberty will assess a fee of \$10.00 for an annual inspection of each registered raft. This fee will be paid at the time of registration. The amount of this fee is at the sole discretion of the town board and

may be adjusted by a formal action of the town board of supervisors. The raft official will perform this inspection(s) at any time during a period from March 1st through October 31st. The raft official must document any improper or unsafe conditions to both the raft owner and the town board.

SECTION 4.4 – REGISTRATION CERTIFICATE

The Town of Liberty will issue a Certificate of Registration for each raft registered. Under no circumstances will a Certificate of Registration be issued to an applicant if their raft does not meet the State, County or Town's definition for a fishing raft. Nor will a certificate be issued to any applicant whose raft is found in any violation of any State, County, or Town law, statute or ordinance until the municipality/authority in question deems that the raft is now in compliance. The Certificate of Registration will contain:

1. Fishing raft number.
2. Expiration date.
3. Name of municipality.
4. Owner's name(s)
5. Owner's address(')

SECTION 4.5 – NOTIFY DEPARTMENT OF NATURAL RESOURCES

The Town of Liberty shall submit a complete list of all registered fishing rafts and their owner's names to the Department of Natural Resources on or before April 1st of each year. The list should be mailed to:

Water Management Coordinator
Wisconsin Department of Natural Resources
PO Box 10448
Green Bay, WI. 54307

SECTION 4.6 – DISPLAY OF FISHING RAFT REGISTRATION NUMBER

1. The assigned registration number shall be firmly affixed or painted to the river facing side of each fishing raft.
2. The assigned registration number shall be firmly affixed or painted to at least one location on each flotation device.
3. Each registration number shall read from left to right, contrast with the background and shall be in block letters and numbers not less than three (3) inches high. Each shall be clearly visible and legible.

SECTION 5.0 – CONSTRUCTION AND MAINTENANCE OF FISHING RAFTS AND FLOTATION DEVICES

SECTION 5.1 – FISHING RAFTS SHALL BE MAINTAINED BY THEIR OWNER(S) IN SOUND CONDITION ACCORDING TO THE FOLLOWING STANDARDS:

1. Rafts shall be aesthetically pleasing.
2. If the raft has railing, railings shall be firmly attached to the raft. Loose railings shall be repaired or removed.
3. Toilets, if installed, shall be maintained to comply with COMM Ch. 86, WAC, or the most current revision, as if the toilet were on a boat.
4. The fishing raft shall be firmly anchored or attached to the bed or bank of the waterway to ensure that the fishing raft will not break loose.
5. All cables, anchors, spud poles, or similar devices that anchor or attach the fishing raft to the bed or bank of the waterway shall be removed from the waterway when the raft is removed.
6. Each fishing raft shall be marked with lights, reflecting tape, or reflectors placed in a conspicuous location to make the fishing raft clearly visible at night.

SECTION 5.2 – FLOTATION DEVICES SHALL BE ATTACHED AND MAINTAINED IN THE FOLLOWING MANNER:

1. All flotation devices shall be airtight and sealed.
2. All flotation devices shall be clean and shall not contain any chemicals, oil, grease, or other residue.
3. Containers that contained a toxic or hazardous material as defined in s. NR 605.04, WAC, shall not be used as a flotation device.
4. Metal flotation devices shall be free of rust and painted or coated to prevent rusting.
5. Leaking or deteriorated flotation devices shall be immediately removed from the fishing raft and replaced.
6. Any flotation device, which becomes detached from the fishing raft, shall be retrieved and removed from the waterway by the raft owner(s).

SECTION 6.0 – ENFORCEMENT

SECTION 6.1 – ORDER FOR REMOVAL

The Town of Liberty, Outagamie County may order the owner(s) of a fishing raft to remove this fishing raft from the waterway or property if any provisions of this ordinance or section 30.126(5) Stats. are not being complied with.

SECTION 6.2

If a person fails to comply with an order to remove issued under section 6.1, or if the Town of Liberty is unable to determine the owner(s) of fishing raft, the Town of Liberty may remove and dispose of the fishing raft.

SECTION 6.3

The owner(s) or person(s) responsible for the fishing raft shall reimburse the Town of Liberty for any costs incurred by the town associated with the removal and disposal of the fishing raft under section 6.2.

SECTION 6.4 – PENALTY

A person who violates any provisions of this ordinance or any order issued under this ordinance shall forfeit not less than \$10.00 nor more than \$250.00 for each offense. Each day of violation constitutes a separate offense.

SECTION 7.0 – EFFECTIVE DATE

This ordinance shall become effective upon its passage and publication as required pursuant to law.

SECTION 8.0 – SEVERABILITY

If any provision of this ordinance is invalid or unconstitutional, or if the application of this ordinance to any person or circumstance is invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the provisions or applications of this ordinance which can be given effect without the invalid or unconstitutional provision or application.

By

Michael Ubl - Chairman

William Jurack - Supervisor

Vernon Conradt - Supervisor

I, Cheryl Hosmer, Clerk of the Town of Liberty do hereby certify that this is an exact and true copy of ordinance L101100-01 passed by a majority vote, with a quorum present by the Town Board of Liberty.

Given under my hand and seal this day of

Cheryl Hosmer - Clerk

Dear Wolf River/Embarrass River Raft Owner:

As you may have heard, many new changes in the Raft Program have occurred since last year. The most important change to you as an owner of a Wolf/Embarrass River Fishing Raft is the adoption of a new raft ordinance by the Town of Liberty. This new ordinance will allow for the Town of Liberty to better administer this program. We believe it will also provide for improved protection of the Wolf River and still provide for the continued use of rafts for fishing.

As in past years, assuming you intend to continue to use your raft, you must register it with the Town of Liberty. It is important to know that your raft must be registered before putting it in the water each year. There are also several new points as well as important existing points associated with the new ordinance that I would like to emphasize.

- Rafts cannot be placed into the river earlier than March 1st.
- Rafts must be removed on or before October 31st.
- Rafts must be stored completely out of the waterway, above and beyond the ordinary high water mark, during the period on or before October 31st to March 1st. (See section 2.5 of the ordinance for the definition of ordinary high water mark.)
- Rafts must be placed in the water for a period of not less than 14 continuous days and nights. The Town of Liberty may grant a variance to this requirement, upon request. (See section 3.2 (2) of the ordinance for more information relating to this provision.)
- Fishing Rafts may not exceed 512 sq. ft. with no maximum dimension being longer than 32 feet. Rafts registered prior to Jan. 1, 2001 shall be deemed to be in compliance with this provision.
- Fishing Rafts may not have a maximum height from the deck to the peak of the roofline greater than 11 feet. Rafts registered prior to Jan. 1, 2001 shall be deemed to be in compliance with this provision.
- The raft registration fee has remained the same, \$5.00 per year. An additional fee for raft inspection has been added. A fee of \$10.00 has been deemed necessary by the Town of Liberty to implement and administer this program as well as perform annual inspections of each raft registered within the Town of Liberty. (See section 4.3 (4) for additional information.)

Thank you for your cooperation in helping us administer your program. Hopefully, the weather and fish will cooperate, so we can have a successful and safe season.

Sincerely,

Norb Morack
Raft Official / Constable
Town of Liberty
Outagamie County, Wisconsin

Wagner, Carmen (DNR)

From: Robert Valois [RVal@CenturyTel.net]
Sent: Friday, November 07, 2003 9:48 PM
To: Herkert, Toni
Subject: Fw: NR115

----- Original Message -----

From: [Robert Valois](#)
To: [Toni Herkert](#)
Sent: Thursday, November 06, 2003 8:18 PM
Subject: NR115

Toni Herkert
DNR

Dear Toni

In regard to NR 115, good, but in no case do we believe we should make the rules less stringent than now. We live in Wascott and feel we have a good lake ordinance. We do not want to give up the quality of our lakes to non conforming structures or so called variances.

Thank you.
Sincerely,

Robert and Sharon Valois
16743 Storm Road
Wascott WI 54859-9460

Wagner, Carmen (DNR)

From: loren western [ljwesterns@yahoo.com]
Sent: Tuesday, December 30, 2003 7:46 AM
To: Herkert, Toni
Subject: Feedback Regarding NR 115 draft proposals

To: Toni Herkert, Shoreline Management Team Leader

December 30, 2003

Re: Feedback regarding NR 115 draft proposals

Although our principal residence is in Baltimore, Maryland we have owned a home on a small parcel of land on the Lake Michigan shore since 1987. Having recently retired we are now spending approximately half of our time there and enjoy its beauty and serenity very much. We have also in this time seen the Lake levels go from all time highs to nearly all time lows meaning that the shore line has varied considerably relative to our home which, of course, has not moved.

Unfortunately, we have only in the last few days become aware of the activity regarding draft revision of NR 115 and do not have time to properly review and respond to your 16 page comment package by the deadline of tomorrow, 12/31/03. However, we do want to take this means to make an overall statement regarding these proposals.

That is: We do NOT think that NR 115 draft as written should be applied to Lake Michigan shorelands. The DNR should conduct further study of our Lake Michigan shoreland and the small tributaries that feed it which are now treated as "navigable waterways"(a real stretch). Needs may be completely different from those that apply to real inland lake and river shorelands.

A primary reason for this is that NR 115 relies heavily on the OHWM in determining buffer zones and building set backs. As we have seen over the last 15 or so years, changes in the level of lake Michigan as well as the natural movement of sand on the beaches changes the location of the OHWM rather significantly. Thus using these criteria can and has led to sometimes contradictory and confusing rulings regarding what property owners are permitted to do with buildings and improvements.

Further, we would appreciate the opportunity for more direct input from Lake Michigan shoreline property owners themselves with regard to such issues as shoreline buffers, viewing corridors, non-conforming structures, etc.

As owners of this valuable and nonrenewable asset called "shoreline property" we more than most want to insure that its beauty and overall quality be preserved. We just do not think that lumping the Great Lakes in with true inland bodies of water is the prudent thing to do.

Thanks for the opportunity to give our input. We have included both our Wisconsin and Baltimore addresses as well as phone and e-mail contacts for your records. And yes, we would appreciate e-mail updates regarding the status of the NR 115 revision process.

Loren and Judy Western

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|----------------------|-----------------------|
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| Oostburg, WI., 53070 | Baltimore, Md., 21202 |
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